

## Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10  
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
TRSE-00 OMB-01 IO-13 ACDA-12 /092 R

DRAFTED BY EUR/SE:RCEWING:AM  
APPROVED BY EUR/SE:RCEWING  
H:TWESTON

-----113696 280434Z /13

R 271847Z JUL 78  
FM SECSTATE WASHDC  
TO AMEMBASSY ANKARA  
AMEMBASSY ATHENS  
AMEMBASSY NICOSIA

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E.O. 11652: N/A

TAGS: MARR, MASS, TU

SUBJECT: LETTER FROM CONGRESSMAN HAMILTON TO HIS COLLEAGUES

FOLLOWING FOR YOUR INFORMATION ONLY IS TEXT OF PRIVATE  
"DEAR COLLEAGUE" LETTER FROM CONGRESSMAN LEE H. HAMILTON:

BEGIN TEXT IN THE LAST FEW DAYS, THE PROPONENTS OF KEEPING  
AN ARMS EMBARGO ON TURKEY HAVE CIRCULATED LETTERS GIVING  
REASONS WHY THE EMBARGO AGAINST TURKEY SHOULD BE MAINTAINED.

IN THIS AND SUBSEQUENT LETTERS I SEEK TO GIVE YOU ANOTHER  
PERSPECTIVE ON THIS ISSUE AND TO COUNTER ARGUMENTS MADE BY  
THE PROPONENTS OF THE EMBARGO.

ARGUMENT USED BY PROPONENTS OF KEEPING THE ARMS EMBARGO  
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AGAINST TURKEY:

THE TURKISH ARMS EMBARGO IS REQUIRED AS A MATTER OF LAW.  
PRECISELY THE SAME CONSIDERATIONS WHICH JUSTIFIED IMPOSI-  
TION OF THE EMBARGO NOW REQUIRE ITS CONTINUED SUPPORT.

COUNTER:

1. THIS ISSUE BEFORE CONGRESS IS A POLICY ISSUE, NOT A

LEGAL ISSUE.

WHETHER THE EMBARGO SHOULD BE REQUIRED BY LAW IS THE QUESTION AT ISSUE. CONGRESS SHOULD DECIDE, AS A MATTER OF NATIONAL POLICY, WHETHER THE EMBARGO CONTINUES TO BE APPROPRIATE.

ALTHOUGH THE EMBARGO IS CURRENTLY REQUIRED AS A MATTER OF LAW BY SECTION 620(X) OF THE FOREIGN ASSISTANCE ACT OF 1961, THE CONGRESS IS IN THE PROCESS OF DECIDING WHETHER THAT SECTION SHOULD BE REPEALED. SURELY, THE PROPONENTS OF THE EMBARGO ARE NOT ARGUING THAT CONGRESS IS POWERLESS TO LIFT THE EMBARGO. IF THE CONGRESS ENACTS LEGISLATION REPEALING SECTION 620(X), THE TURKISH ARMS EMBARGO WILL NO LONGER BE REQUIRED AS A MATTER OF LAW.

2. OTHER PROVISIONS OF LAW DO NOT REQUIRE THE TURKISH ARMS EMBARGO.

SECTION 3(C) OF THE ARMS EXPORT CONTROL ACT AND SECTION 505(D) OF THE FOREIGN ASSISTANCE ACT OF 1961 ARE GENERAL IN NATURE AND DO NOT NEGATE ANY SPECIFIC ACTION THAT THE CONGRESS MAY TAKE WITH RESPECT TO SHIPMENTS OF U.S. ARMS LIMITED OFFICIAL USE

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TO TURKEY.

TO ARGUE THAT THEY DO IS TO ARGUE THAT THE PARTIAL LIFTING OF THE EMBARGO WHICH THE CONGRESS ENACTED IN 1975, REVISED IN 1976, AND EXTENDED IN 1977, IS ILLEGAL.

THOSE PROVISIONS WERE EXTENSIVELY REVISED IN 1976 AND DO NOT APPLY TO VIOLATIONS OCCURRING BEFORE THEN. BY THE TERMS OF THOSE REVISED SECTIONS, A COUNTRY DOES NOT BECOME INELIGIBLE TO RECEIVE U.S. ARMS AND ASSISTANCE UNTIL EITHER (1) THE PRESIDENT DETERMINES THAT A SUBSTANTIAL VIOLATION OF THE TERMS OF A MILITARY ASSISTANCE OR SALES AGREEMENT HAS OCCURRED AND REPORTS THAT DETERMINATION TO CONGRESS, OR (2) THE CONGRESS ADOPTS A JOINT RESOLUTION STATING THAT IT FINDS THAT A COUNTRY IS INELIGIBLE BECAUSE A SUBSTANTIAL VIOLATION HAS OCCURRED. NEITHER ACTION HAS OCCURRED IN THE TURKISH CASE. THESE PROVISIONS OF LAW ARE NOT SELF-ENFORCING.

3. THE PRINCIPLE OF LAW HAS BEEN UPHELD.

CONGRESS ENACTED SECTION 620(X) AND SANCTIONS HAVE BEEN

APPLIED AGAINST TURKEY PURSUANT TO IT. WE SHOULD NOT CONTINUE THE EMBARGO WHEN IT SEVERELY IMPAIRS THE NATIONAL SECURITY OF THE UNITED STATES. OUR PURPOSE IS TO GET

TURKISH TROOPS OFF THE ISLAND AND GET A SETTLEMENT OF THE CYPRUS DISPUTE. THE PRESENT APPROACH IS NOT WORKING.

4. THE PRINCIPLE OF LAW WILL NOT BE STRENGTHENED BY LEAVING THE EMBARGO IN EFFECT INDEFINITELY.

IT DEFIES COMMON SENSE TO CONTEND THAT LAWS SHOULD REMAIN IN FORCE WHEN THEY HARM THE NATIONAL INTEREST. NOTHING REQUIRES THE IMPOSITION OF AN EMBARGO FOR AN INDEFINITE DURATION AS THE ONLY PERMISSIBLE RESPONSE TO A VIOLATION LIMITED OFFICIAL USE

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OF THE LAW.

5. SELECTIVE ENFORCEMENT UNDERMINES THE PRINCIPLE OF LAW.

THE PROPONENTS OF KEEPING THE EMBARGO HAVE SHOWN NO INTEREST IN APPLYING THE LAW IN OTHER CASES WHERE RECIPIENTS OF AMERICAN ARMS MAY HAVE VIOLATED AGREEMENTS WITH THE UNITED STATES ON THE PRESCRIBED USES OF US-SUPPLIED EQUIPMENT. THE LIBRARY OF CONGRESS LISTS OVER TWENTY CASES SINCE THE 1950S WHEN FOREIGN STATES MAY HAVE VIOLATED BILATERAL AGREEMENTS WITH THE UNITED STATES. TURKEY IS THE ONLY COUNTRY AGAINST WHICH CONGRESS HAS APPLIED THESE SANCTIONS.

6. FROM ITS VIEWPOINT, TURKEY SEES THE LEGAL ISSUES DIFFERENTLY.

SINCE CYPRUS' INDEPENDENCE IN 1960, BOTH TURKEY AND GREECE HAVE SENT US-ORIGIN EQUIPMENT THERE ILLEGALLY. YET, TURKEY WAS PUNISHED IN 1974. FROM ITS PERSPECTIVE, TURKEY FELT IT HAD CONFLICTING LEGAL RESPONSIBILITIES. ON THE ONE HAND TURKEY WAS RESPONSIBLE TO OUR BILATERAL AGREEMENTS AND, ON THE OTHER HAND, TURKEY FELT IT HAD A RESPONSIBILITY UNDER THE 1960 ACCORDS ON CYPRUS (ARTICLE 4 OF THE 1960 TREATY OF GUARANTEE) WHICH GAVE TURKEY THE RIGHT TO INTERVENE TO RESTORE "THE STATE OF AFFAIRS" CREATED BY THE ACCORDS. SOME APPRECIATION SHOULD BE SHOWN FOR TURKEY'S LEGAL AND POLICY DILEMMA.

IN SUM, THE TURKISH ARMS EMBARGO IS NOT REQUIRED AS A MATTER OF LAW. WHETHER THERE IS AN EMBARGO ON ARMS SHIPMENTS TO TURKEY IS A MATTER OF POLICY TO BE DECIDED BY CONGRESS. IN MY VIEW, UNITED STATES INTERESTS ARE SUFFER-LIMITED OFFICIAL USE

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ING IN THE REGION, THE EMBARGO HAS BECOME SELF-DEFEATING  
AND A NEW APPROACH IS NEEDED TO TRY TO ACHIEVE A CYPRUS  
SETTLEMENT AND ACCELERATE THE WITHDRAWALS OF REMAINING  
TURKISH TROOPS FROM THE ISLAND.

I HOPE YOU WILL AGREE THAT IT IS IN OUR NATIONAL INTEREST  
TO LIFT THE EMBARGO AGAINST TURKEY. END TEXT CHRISTOPHER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TEXT, LEGISLATORS, TEXTS, PUBLIC CORRESPONDENCE, ARMS EMBARGO  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 27 jul 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978STATE189828  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** RCEWING:AM  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 1864979  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LETTER FROM CONGRESSMAN HAMILTON TO HIS COLLEAGUES FOLLOWING FOR YOUR INFORMATION ONLY IS TEXT OF PRIVATE "DEAR COLLEAGUE" LETTER FROM CONGRESSMAN L EE H. HA  
**TAGS:** MARR, MASS, TU, (HAMILTON, LEE H)  
**To:** ANKARA ATHENS MULTIPLE  
**Type:** TE  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014